

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH “G”: NEW DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

**ITA No. 2384/DEL/2023
Assessment Year: 2023-24**

Shree Vaish Aggrawal Samaj Chawla Colony, Ballabgarh, Agarsain Bhawan Aggarwal Dharamshala, Near Panchayat Bhawan, Chawla Colony, Ballabgarh-121004 PAN- ABCAS8302F	<u>Vs</u>	Commissioner of Income-tax (Exemption), Chandigarh.
APPELLANT		RESPONDENT
Assessee represented by	Ms. Deepika Garg, CA	
Department represented by	Shri Vivek Anand Ojha, CIT(DR)	
Date of hearing	29.02.2024	
Date of pronouncement	06.03.2024	

ORDER

PER KUL BHARAT, JM:

This appeal, by the assessee, is directed against the order of the learned Commissioner of Income-tax (Exemptions), Chandigarh, dated 20.06.2023, rejecting assessee’s application for registration u/s 80G(5) of the Income-tax Act, 1961 (hereinafter referred to as the “Act”). The assessee has raised following grounds of appeal:

“1. That having regards to the facts and circumstances of the case, the appellant challenge the order of rejection of application made under clause (iii) of first proviso to sub-section (5) of section 80G of the Income Tax Act, 1961 (hereinafter referred as the "Act") passed by the Hon'ble CIT Exemption.

2. That on facts and circumstances prevailing in the case and as per the provisions of the law, held that the Hon'ble Commissioner of Income Tax Exemptions has rejected the application made under clause (iii) of first proviso to sub-section (5) of section 80G of the Act without granting proper opportunity of being heard.

3. That on the facts and circumstances prevailing in the case and as per the provisions of the law, held that the order of the Hon'ble Commissioner of Income Tax Exemptions in rejecting the application filed by the Appellant in Form 10AB u/s 80G(5)(iii) of the Act is improper, unwarranted, unjustified and contrary to the provision of the Act and facts prevailing in the case. It be held that on facts and circumstances prevailing in the case, registration may be granted.

4. That the appellant craves the leave to add, withdraw, alter or modify any ground of appeal at any stage of hearing and that the grounds above are without prejudice to each other.”

2. Facts, in brief, are that the assessee filed application in form no. 10AB under Rule 11AA of the I.T. Rules, 1962 for registration of the trust u/s 80G(5) of the Act, electronically on 20.12.2022. The assessee and commenced its activities on 04.04.1998 and was granted provision approval in Form no. 10AC vide order issued on 13.12.2022 under clause (iv) of first proviso to sub-section (5) of Section 80G for the period commencing from 13.12.2022 to AY 2025-26. The learned CIT(E) rejected the application on the ground that same was not filed within the prescribed time.

3. Apropos to the grounds of appeal, learned counsel for the assessee contended us that no meaningful and reasonable opportunity to represent its case was offered to the assessee and, therefore, the impugned order suffers from error and needs to be set aside permeating the fact that the mandate of law is to provide opportunity to the assessee for representing its case regarding registration u/s 80G.

4. On the other hand, learned CIT(DR) opposed the submissions and contended that there is no ambiguity under the provisions of law. The assessee trust was required to file application within six months from the date of grant of provisional registration or commencement of the activity, whichever is earlier. Undisputedly, in the present case the assessee trust had commenced its activities way back in 1998, therefore, the application filed by the assessee on 20.12.2022 was barred by time.

5. We have heard rival submissions and perused the material available on record. The only dispute is with regard to the correctness of the order of the learned CIT(E) for rejecting the application filed by the assessee trust for registration u/s 80G of the Act. Considering the nature of issue involved for adjudication and the contention made on behalf of the assessee that it was not provided sufficient opportunity to represent its case before the learned CIT(E), in order to subserve the interest of natural justice and to be fair to both the parties we

set aside the order of learned CIT(E) and restore the application for registration u/s 80G to the file of learned CIT(E) for decision afresh, in accordance with law, after affording adequate opportunity to the assessee to represent its case. Grounds are allowed for statistical purposes.

6. Appeal of the assessee stands allowed for statistical purposes.

Order pronounced in open court on 06.03.2024.

Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER
MP

Sd/-
(KUL BHARAT)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI